



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7900-99

23 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 24 May 1996 for eight years at age 23. You were ordered to active duty for a period of three years on 4 June 1996.

The record reflects that on 7 June 1996 a Navy drug laboratory reported that the urinalysis you submitted on 5 June 1996 had tested positive for marijuana. On 12 June 1996 you were notified that separation action was being initiated by reason of defective enlistment and induction due to erroneous enlistment as evidenced by the positive urinalysis. You were advised of your procedural rights and declined to consult with counsel, but elected to have your case reviewed by the general court-martial convening authority (GCMCA). Thereafter, the commanding officer (CO) recommended an entry level separation by reason of erroneous entry. On 3 July 1996, the GCMCA reviewed the case and concurred with the separation recommended by the CO. On 10 July 1996, you received an uncharacterized entry level by reason of "erroneous entry - drug abuse" and were assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals separated by reason of erroneous entry due to drug abuse. The Board noted your statement explaining the circumstances which led to your testing positive in recruit training and your regret for those actions. Your contention of immaturity is without merit since at age 23 you were much older than the average recruit. Since you were treated no differently than others separated under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director